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SUBJECT: REFERENDUM ON CROATIA'S ENTRY INTO NATO - NOT LEGALLY
REQUIRED, BUT A RISK SOME PARTIES WOULD TAKE

¶1. SUMMARY: Real public debate on the pros and cons of Croatia's NATO membership has only just begun, but the campaign for the November 25 parliamentary elections has already produced promises of a NATO referendum from some Croatian opposition parties. While all parties in Parliament are pro-NATO and agree that a referendum to join is not legally necessary, some argue that a referendum should be held "to feel the people's pulse". A negative vote on NATO in such a referendum, however, would not merely be politically damaging, but, if turnout were over 50 percent, would be legally binding on the government. END SUMMARY.

¶2. Croatia's major political parties, all of which are in varying degrees pro-NATO, agree that NATO is an "international agreement." Under the Croatian Constitution, joining an international agreement requires only ratification by a two-thirds majority vote of all representatives in the Croatian Parliament to enter into force. However, Article 86 of the Constitution also allows Parliament to call a referendum on any issue it considers important for Croatia. While the ruling HDZ has indicated it would not call such a referendum, most opposition parties - including the largest, the Social-Democratic Party (SDP) - advocate holding such a referendum on NATO "to feel the people's pulse." These parties argue that Croatia's membership in NATO would be on sounder footing if it had been explicitly endorsed by a public decision.

¶3. A decision in such a referendum is made by the majority of the voters who participate, provided that more than half of all eligible voters take part in it. While calling a referendum is not required for Croatia to join an international agreement, if turnout is over the 50 percent threshold, then its decision is legally binding on the government. If turnout were below 50 percent, then the referendum would be judged to have not reached a decision, and the government would not be legally bound by the result. It would, therefore, be legally free to complete NATO accession based solely on Parliamentary ratification. Politically, however, unless the government could argue that turnout was so low as to represent an invalid measure of public opinion, it would be very difficult for a government to ignore any result with a significant margin against NATO. (NOTE: No such options exist for EU accession under the current Constitution. Since the EU is considered an "alliance of states", Article 141 of the Croatian Constitution requires that EU accession be ratified by a positive decision in a referendum, meaning that the 50% turnout requirement would have to be met for a decision to be valid. END NOTE.)

¶4. The latest polls suggest that Croatian citizens' support the country's entry into NATO hovers right around 50 percent, with slightly higher figures if only those who say they would be likely to vote are considered. Any party calling a referendum on NATO, therefore, would need to commit to an energetic political campaign to promote a yes vote. In addition, if a Croatian government holding office after the upcoming November 25 elections decided to call such a referendum, it would need to move quickly to establish the mechanisms for such a vote, as Croatia lacks any experience with referendums since its vote for independence in 1991.

